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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

CANDACE EWELL,

Plaintiff,

v.

LAW OFFICES OF KIRK A. CULLIMORE,
L.L.C.,

Defendant.

COMPLAINT

[Case Number: 2:11-cv-00405-CW](#)

JURY TRIAL DEMANDED

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

II. JURISDICTION

2. Plaintiff's claim for violations of the FDCPA arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331.

III. PARTIES

3. Plaintiff, Candace Ewell ("Plaintiff"), is a natural person residing in Salt Lake County, Utah.

4. Defendant, Law Offices of Kirk A. Cullimore, L.L.C., ("Defendant") is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant regularly attempts to collect debts alleged due another.

IV. FACTUAL ALLEGATIONS

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

7. All activities of Defendant set out herein were undertaken in connection with the collection of a "debt," as defined by 15 USC § 1692a(5).

8. Within the last year, Defendant took multiple actions in an attempt to collect a debt from Plaintiff. Defendant's conduct violated the FDCPA in multiple ways, including the following.

9. Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including threatening that there would be a warrant issued for Plaintiff's arrest if she did not agree to a payment plan. On or about January 10, 2011, Plaintiff spoke with a representative of Defendant. Defendant's representative, a female, offered Plaintiff a payment plan, and told her that if she did not agree to the payment plan that day, a warrant would be issued for Plaintiff's arrest. Plaintiff agreed to a payment plan she could not afford in order to avoid the possibility of arrest (§ 1692e(5)).

10. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

11. Defendant intended to cause, by means of the actions detailed above, injuries to

Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

12. Defendant's actions, detailed above, were undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.

13. To the extent Defendant's actions, detailed in the paragraphs above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

14. Plaintiff reincorporates by reference all of the preceding paragraphs.

15. The preceding paragraphs state a *prima facie* case for Plaintiff and against Defendant for violations of the FDCPA, § 1692e.

PRAYER FOR RELIEF

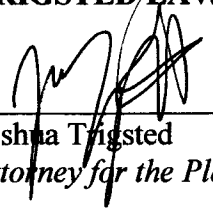
WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages pursuant to 15 USC 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Dated this 3rd day of May, 2011.

TRIGSTED LAW GROUP, P.C.



Joshua Trigsted
Attorney for the Plaintiff